

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

FILED

NOV 04 2014

WESTERN DIVISION

NO. 5:14-CV-133-FL

JULIE A. RICHARDS, CLERK
U.S. DISTRICT COURT, EDNC
BY  DEP. CLK

TIMOTHY P. DANEHY

Plaintiff,

v.

TIME WARNER CABLE
ENTERPRISES LLC.

Defendant.

DECLARATION OF

TIMOTHY P. DANEHY

Timothy P. Danehy declares, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am over the age of 18 years and am under no disability which would prevent me from testifying competently to the matters set forth herein. I have first-hand knowledge of these matters.

2. I submit this declaration in support of plaintiff's opposition to defendant's motion for summary judgment.

3. I am the owner and sole user of the TracFone that was assigned number 704-421-6235.

4. I am currently in possession of the TracFone that was assigned number 704-421-6235.

5. I placed number 704-421-6235 on the national do-not-call list on September 30, 2013. (Correction to Scribner error in previous affidavit)

6. I witnessed six calls total from 877-566-4892 to cellular TracFone assigned 704-421-6235, three on November 25th and three more on November 26th, 2013. (Correction to Scribner error in previous affidavit)

7. I was awakened from sleep three times by the calls from 877-566-4892 to 704-421-6235 that were received in the a.m. of November 26th, 2013. (Correction to Scribner error in previous affidavit)

8. I never gave Time Warner cable express written consent or any other consent to call 704-421-6235.

9. I never requested telephone solicitations from Time Warner cable.

10. I received an email from Darrell Hegar TWC's regional VP of operations-Carolinas on February 6, 2014 in which Mr. Hegar stated, "I was hoping I could schedule some time with you to update you on the automated dialing issue you experienced."

11. I downloaded from www.skycreek.com a two-page document titled A 20 YEAR PIONEER IN OPTIMIZING CONTACT TO REINVENT PERFORMANCE & COST on October 23rd, 2014.

12. When I answered the call on the evening of November 25th, 2013 I heard a pre-recorded message play.

13. I received a confirmation email from the national do-not-call registry on October 31st, 2014. The email confirmed number ending 6235 was registered on the national do-not-call registry on September 30th, 2013.

14. I made several attempts to settle this matter amicably before filing suit.

Executed this the 2nd day of November 2014.



Timothy P. Danehy

The undersigned hereby certifies that he served a copy of the foregoing document on the defendant in this action by placing the same in the United States mail, prepaid postage affixed, addressed as follows: D.J. O'Brien III

Brooks, Pierce, McLendon,
Humphrey & Leonard, LLP
1600 Whachovia Capitol Center
150 Fayetteville Street
Raleigh, NC 27601

This the 2nd day of November 2014.



Timothy P. Danehy

P.O. Box 301

Kittrell, NC 0301-0301

nonovation@yahoo.com

252-492-0194

919-702-6842